

**REMARKS**

Claims 1, 3-8, 10-20, 23 and 25-27 are pending in this application. By this Amendment, the specification, drawings, and claims 1, 10, 23 and 25 are amended, and claims 2, 9, 21, 22 and 24 are canceled. No new matter is added.

**I. Formal Matters**

Applicants thank the Examiner for the indication that claims 24-27 contain allowable subject matter. By this Amendment, allowable claim 24 is cancelled and its subject matter incorporated into claim 23. Accordingly, claim 23 and claims 25-27 dependent therefrom are believed to be in condition for allowance.

The specification is amended to remedy a typographical error noted upon review. No new matter is added.

The attached replacement drawing Figures 5 and 7 are revised to remedy obvious typographical errors. In particular, block S1000 in Fig. 5 and block S660 in Fig. 7 are amended to change "unanalyzed" to --unanalyzed--. No new matter is added. Approval of the replacement drawings is respectfully requested.

**II. Pending Claims Define Patentable Subject Matter**

The Office Action rejects claims 1, 3-4, 6-12, and 14-23 under 35 U.S.C. §102(e) over U.S. Patent Appl. Publ. No. US2003/0067618 to Farrell.<sup>1</sup> This rejection is respectfully traversed.

Independent claims 1, 10 and 23 have been amended to clarify the invention. In particular, independent claim 23 is amended for clarity and now incorporates the allowable

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<sup>1</sup> The rejection under 35 U.S.C. §102 of claims 14-17 is improper because the Office Action relies on Wolf in support of the rejection. Accordingly, it is assumed that the Office Action intended to reject these claims under §103 in view of Farrell and Wolf.

subject matter of canceled claim 24. Accordingly, claim 23 and claims 25-27 dependent therefrom define over the applied prior art.

Independent apparatus claim 1 has been amended for clarity and to incorporate features from canceled claim 9 and aspects of a job queue adjustment mechanism from allowable claim 23 that enables reprioritizing of jobs in the queue. Independent method claim 10 has been amended for clarity and to incorporate features from canceled claims 21 and 22 and aspects of job queue reprioritizing from claim 23.

Farrell fails to teach each and every feature of amended independent claims 1, 10 and 23. In particular, Farrell fails to teach the recited methods or apparatus for reprioritizing of a job by promotion or demotion of jobs in the job queue as now claimed. For example, Farrell fails to teach "means for determining a new location in the job queue for the selected job"; "means for determining...if the selected job can be performed"; "means for preventing promotion...if the selected job cannot be performed"; "means for promoting the selected job to the new location...only if the selected job can be performed at the new location"; "means for demoting"; or "means for reevaluating demoted jobs" as recited in claim 1 and similarly recited in claims 10 and 23.

At best, Farrell discloses in paragraph [0052] to place a job on hold and skip to the next job if system resources are unavailable to complete the job. Because Farrell fails to teach each and every feature of independent claims 1, 10, or 23, these claims and claims dependent therefrom are not anticipated by Farrell. Withdrawal of the rejection is respectfully requested.

The Office Action additionally rejects claims 2, 5 and 13 (and presumably 14-17) under 35 U.S.C. §103(a) over Farrell in view of U.S. Patent No. 6,275,664 to Wolf. This rejection is respectfully traversed.

According to 35 U.S.C. §103(c), subject matter which qualifies as prior art only under one or more of subsections 102(e), (f) and (g), shall not preclude patentability under 35 U.S.C. §103 where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Farrell cannot be relied upon in an obviousness rejection under 35 U.S.C. §103(a) because (1) Farrell is commonly owned with the present application, and (2) Farrell only constitutes prior art under 35 U.S.C. §102(e). In particular, Farrell's publication date is after this application's November 13, 2001 filing date, making Farrell §102(e) prior art. Moreover, the claimed invention and the Farrell application were, at the time the claimed invention was made, commonly owned by or subject to an obligation of assignment to the same entity, Xerox Corporation. Assignment of the claimed invention to Xerox Corporation was recorded at Reel 12176/Frame 0147 of the Patent Office Assignment Branch records.

Accordingly, under 35 U.S.C. §103(c)(1), Farrell does not constitute prior art for purposes of supporting an obviousness rejection under 35 U.S.C. §103(a).

Wolf fails to teach or suggest all of the features recited in independent claims 1, 10 or 23. Accordingly, these claims and claims dependent therefrom define over Wolf and contain allowable subject matter.

For at least the foregoing reasons, reconsideration and withdrawal of the rejection are respectfully requested.

### **III. Conclusion**

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1, 3-8, 10-20, 23 and 25-27 are earnestly solicited.

**III. Conclusion**

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1, 3-8, 10-20, 23 and 25-27 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



James A. Oliff  
Registration No. 27,075

Stephen P. Catlin  
Registration No. 36,101

JAO:SPC/fpw

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**OLIFF & BERRIDGE, PLC**  
**P.O. Box 19928**  
**Alexandria, Virginia 22320**  
**Telephone: (703) 836-6400**

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**Amendments to the Drawings:**

The attached replacement drawing sheets makes changes to Figs. 5 and 7 and replace the original sheets with Figs. 5 and 7.

Attachment: Replacement Sheets